

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN**

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 35682 of 2007(W)

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RCOP.10/2007 of DISTRICT COURT, KOTTAYAM
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PETITIONER:

**DR.JAMES.E.V., SUKODAYA AYURVEDIC
HOSPITAL, KANHIKUZHI, KOTTAYAM.**

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

RESPONDENTS:

- 1. GRACE THOMAS, KOCHUPURAKAL HOUSE,
KANHIKUZHI, KOTTAYAM.**
- 2. DR.ANIL MATHEW THOMAS, KOCHUPURAKAL
HOUSE, KANHIKUZHI, KOTTAYAM.**
- 3. DR.REETHA JAMES, SUKODAYA AYURVEDIC
HOSPITAL, KANHIKUZHI, KOTTAYAM.**

BY GOVT. PLEADER SRI.P.A.SALIM

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.Balakrishnan Nair &
K.P.Balachandran, JJ.

W.P.(C)No. 35682 of 2007 W

JUDGMENT

Balakrishnan Nair, J.

The petitioner is the respondent in R.C.O.P. No.10/07 on the file of the Rent Control Court, Kottayam. The Rent Control Petition was filed under Section 11(3) of the Kerala buildings (Lease and Rent Control) Act, 1965. The writ petition is filed challenging Exhibit P6 order of the Rent Controller in I.A.No.2023/07 filed in the above said RCOP. It was an IA filed for setting aside the report of the Commissioner filed on 18.10.2007 and to appoint another Advocate Commissioner to make local inspection and report on the matters mentioned in the Commission Application. The Rent Controller found that the application is only to delay the trial of the case. According to the Rent Controller, there was no merit in the application. It was also held that during trial, if it is found that the petitioner is in any manner prejudiced by the Commission report, appropriate

direction at that stage can be given. The petitioner attacks the above said order.

2. We notice that it is an order within the jurisdiction of the Rent Controller. Further, the final decision in the matter has been deferred to the stage of trial. Therefore, now, it cannot be said that the petitioner is aggrieved by the decision of the Rent Controller. We also notice that if any irregularity is committed during the trial, every time, the party need not rush to this Court. He can file appeal, if the final order goes against him, raising such alleged irregularity also as a ground of appeal.

For all the above reasons, the writ petition is not maintainable. Accordingly, it is dismissed. It is made clear that we have not expressed any opinion on the merits of the contentions raised by the petitioner in this writ petition against the Commission Report.

(K.Balakrishnan Nair, Judge)

3rd December, 2007

(K.P.Balachandran, Judge)

tkv